UNITED STATES PATENT AND TRADEMARK OFFICE

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ART UNIT	PAPER NUMBER
2617	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/533,250	RANTAPUSKA, OLLI
	Examiner	Art Unit	
	HUY C. HO	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _09/29/2008_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-18_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-18_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on _29 April 2005_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR

1.17(e), was filed in this application after final rejection. Since this application is eligible for

continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely

paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 09/29/2008 has been entered.

Response to Arguments

2.   Applicant's arguments filed 09/29/2008 have been fully considered but they are not persuasive.

The argued features, i.e., terminal device receives messages from a second device read upon

Robarts as Robarts teaches and discloses that the mobile device has a network communication means

for communication with other devices via a communication network (see figure 12, paragraph [70]),

therefore disclosing terminal device receives messages from a second device.

As a result, the argued features were written such that they read upon the cited reference.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or
composition of matter, or any new and useful improvement thereof, may obtain a patent
therefor, subject to the conditions and requirements of this title.

Claim 12 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-

statutory subject matter as when claimed of a carrier wave, which is directed to a non-statutory

subject matter.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis

for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless – (e) the invention was described in (1) an
>
> application for patent, published under section 122(b), by another filed in the United States
>
> before the invention by the applicant for patent or (2) a patent granted on an application for
>
> patent by another filed in the United States before the invention by the applicant for patent,
>
> except that an international application filed under the treaty defined in section 351(a) shall
>
> have the effects for purposes of this subsection of an application filed in the United States only
>
> if the international application designated the United States and was published under Article
>
> 21(2) of such treaty in the English language.

5.   **Claims 1-18** are rejected under 35 U.S.C. 102(e) as being anticipated over **Robarts et al**

(2004/0002843).

      Consider claim 1, (currently amended) Robarts discloses a method **(see the abstract)**,

comprising:

      Robarts discloses:

      detecting an initiation event for establishing a simulated communication in a terminal device

(see the abstract, figure 2, pars [12], [41], [68], [69], see the provisional application, page 1 lines

14-17, page 5 lines 5-11, page 6 lines 5-10, 17-20, 24-25, page 12 figure 3, page 13 lines 15-19),

wherein said terminal device is configured to receive messages from a second device **(see figure 12,**

paragraph [70]).

      determining properties of said detected initiation event, generating a simulated message

related to said determined properties **(see pars [40]-[41], [51], [68]-[70], see the provisional**

application, page 1 lines 14-17, page 5 lines 5-11, page 6 lines 5-10, 17-20, 24-25, page 12 figure

3, page 13 lines 15-19), ~~by accessing a standard communication functionality of the terminal device~~

(see the abstract, figure 12, pars [41], [63], [65], [70], [104], where Robarts describes the

simulation engine is implemented as a fat client and embedded within a mobile client device,

indicates values that have been sensed by function device which is a part of the mobile device,

thus disclosing accessing a standard communication functionality of the terminal device), said

message being generated from data stored in a storage (see figure 10, numbers 1013-1015, pars

[64]-[66], describing various data repositories in a device, thus disclosing storage);

presenting said simulated message via said standard communication functionality of the

terminal device (pars [92], [96], see the provisional application, page 1 lines 14-17, page 5 lines 5-

11, page 6 lines 5-10, 17-20, 24-25, page 12 figure 3, page 13 lines 15-19, page 21 lines 18-34),

where said standard communication functionality is further configured for presenting messages

received from the second device (see figure 12, paragraph [70]).

wherein said simulated message has the appearance of a typical message ~~of~~ received from the

second device and presented via (see figure 12, paragraph [70]), said standard communication

functionality (pars [90]-[92], [99], describing the simulation engine interacts with the user device

when the user types in not-canned questions in many ways, including changing states of the

device, ringing, text, audio, or graphic form, see the provisional application, page 1 lines 14-17,

page 5 lines 5-11, page 6 lines 5-10, 17-20, 24-25, page 12 figure 3, page 13 lines 15-19, page 21

lines 18-34).

Consider claim 13, (currently amended) Robarts discloses an apparatus, comprising:

Robarts discloses:

a detection module for detecting an initiation event for establishing a simulated

communication (see the abstract, figure 2, pars [12], [41], [68], [69], see the provisional

application, page 1 lines 14-17, page 5 lines 5-11, page 6 lines 5-10, 17-20, 24-25, page 12 figure

3, page 13 lines 15-19, page 21 lines 18-34),

a determination module, connected to said detection module for determining properties of said

detected initiation event (see pars [11], [40]-[41], [51], [68]-[70], see the provisional application,

page 1 lines 14-17, page 5 lines 5-11, page 6 lines 5-10, 17-20, 24-25, page 12 figure 3, page 13

lines 15-19, page 21 lines 18-34),

a received module for receiving messages from at least one other device (see figure 12,

paragraph [70]),

a storage for storing components of simulated messages (figures 6, 10, pars [65]-[66]),

a generation module, connected to said determination module and to said storage module, for

generating simulated messages from said stored components in correspondence with said determined

properties (pars [36], [41], [51], [72]), by accessing a standard communication functionality of the

terminal device (see the abstract, figure 12, pars [41], [63], [65], [70], [104], wherein Robarts

describes the simulation engine is implemented as a fat client and embedded within a client

device, indicates values that have been sensed by function device which is a part of the mobile

device, thus disclosing accessing a standard communication functionality of the terminal device),

a communication component for presenting said generated simulated messages (pars [92],

[96]), and said messages received from said at least one other device (see figure 12, paragraph [70]),

wherein said communication component comprises said standard communication functionality

of the apparatus for presenting said generated simulated messages (pars [92], [96], see the

provisional application, page 1 lines 14-17, page 5 lines 5-11, page 6 lines 5-10, 17-20, 24-25, page

12 figure 3, page 13 lines 15-19, page 21 lines 18-34), and

wherein said generated simulated messages have the appearance of a typical messages

received from said at least one other device via a received module and presented via (see figure 12,

paragraph [70]).of said standard communication functionality (pars [90]-[92], [99], describing the

simulation engine interacts with the user device when the user types in not-canned questions in

many ways, including changing states of the device, ringing, text, audio, or graphic form, see the

provisional application, page 1 lines 14-17, page 5 lines 5-11, page 6 lines 5-10, 17-20, 24-25, page

12 figure 3, page 13 lines 15-19, page 21 lines 18-34).

Consider claim 16, (currently amended) Robarts discloses a network device for providing data for generating a simulated communication to terminal devices (see the abstract), comprising:

Robarts discloses:

a storage module for storing generation rules for simulated messages, simulated message components and evaluation rules (figure 10, the abstract, pars [55], [64]-[66]),

a communication module for connecting to said communication network and to said terminal devices (figures 6, 10, 12, pars [9], [36], [50], [51], [64], [66], [70]), and

a controller connected to said storage module and to said communication module, for selecting sets of simulated messages components and generation rules for transmitting said selected sets of simulated message components to said terminal devices (figure 12, pars [36]-[37], [69]-[70]) ~~via a standard communication functionality of said terminal devices~~ (pars [92], [96]),

wherein said simulated messages have the appearance of typical messages of said standard communication functionality of said terminal devices (pars [90]-[92], [99]), which are received at said terminal devices from other devices (see figure 12, paragraph [70]),

~~wherein said stimulated messages are generated by accessing said standard communication functionality of said terminal~~ devices (the abstract, figure 12, pars [41], [63], [65], [70], [104], see the provisional application, page 1 lines 14-17, page 5 lines 5-11, page 6 lines 5-10, 17-20, 24-25, page 12 figure 3, page 13 lines 15-19, page 21 lines 18-34).

Consider claim 17, (currently amended) Robarts discloses an apparatus, comprising:

Robarts discloses:

means for detecting an initiation event for establishing a simulated communication (the abstract, figure 2, pars [12], [41], [68], [69]),

means, connected to said detection module for determining properties of said detected initiation event (pars [11], [40]-[41], [51], [68]-[70]),

means for storing components of simulated messages (figures 6, 10, pars [65]-[66]),

means for receiving messages via a communication network **(see figure 12, paragraph [70]),**

means, connected to said determination module and to said storage module, for generating

simulated messages from said stored component in correspondence with said determined properties

(pars [11], [40]-[41], [51], [68]-[70]) ~~by accessing a standard communication functionality of the~~

~~terminal device~~ **(figure 12, pars [41], [63], [65], [70], [104], see the provisional application, page**

1 lines 14-17, page 5 lines 5-11, page 6 lines 5-10, 17-20, 24-25, page 12 figure 3, page 13 lines

15-19, page 21 lines 18-34), and

means for presenting said generated simulated messages **(pars [92], [96]),**

wherein said means for presenting said generated simulated messages comprises ~~said~~ a

standard communication functionality of the apparatus for presenting said generated simulated

messages **(pars [90]-[92], [96], [99]),** and said messages received via a communication network **(see**

figure 12, paragraph [70]), and

wherein said generated simulated messages have the appearance of a typical messages ~~of~~

received via the means for receiving messages and presented via **(see figure 12, paragraph [70]),** said

standard communication functionality **(pars [90]-[92], [96], [99]).**

Consider claim 2, (previously presented) The method according to claim 1, wherein said

generating comprises composing said simulated message from said data in correspondence with said

determined properties and composing rules stored in said storage **(pars [11], [40]-[41], [51], [68]-**

[70]).

Consider claim 3, (previously presented) The method according to claim 1, Robarts discloses

further comprising opening a timeframe after the detection of said initiation event, and presenting said

simulated message after the timeframe has closed **(par [60]).**

Consider claim 4, (previously presented) as applied to **claim 1**, Robarts discloses receiving

data from a provider, data comprises components, fragments of simulated messages and rules for

generating said simulated message **(see figure 10, pars [36]-[37], [66], [69]-[70], where Robarts**

discloses information, attributes and behavior of simulated phenomena, the data stored in the

repositories in the simulation engine are available through a web servers, thus discloses receiving data from a provider, data comprises components, fragments of simulated messages and rules for generating said simulated message).

Consider claim 5, (previously presented) as applied to claim 1, Robarts et al. disclose said initiation event is a predetermined point of time (see par [51], where Robarts discloses the simulated phenomena attributes data repository 620 typically stores information that is used to characterize and implement the "behavior" of simulated phenomena, responses to interaction requests, for example, attributes may include values for location, orientation, velocity, direction, acceleration, path, size, duration schedule, type, elasticity, mood, temperament, image, ancestry, or any other seemingly real world or imaginary characteristic of simulated phenomena, thus discloses the initiation event is a predetermined point of time).

Consider claim 6, (previously presented) as applied to claim 1, Robarts et al. disclose said initiation event is defined by a reception of a user input or the reception of a message from a provider (see figures 9, 10, paragraphs [60], [66], where Robarts teaches the mobile device senses values based on the real world environment through an operator input and also teaches information, attributes and behavior of simulated phenomena, the data stored in the repositories in the simulation engine are available through a web servers, thus Robarts teaches said initiation event is defined by a reception of a user input or the reception of a message from a provider).

Consider claim 7, (previously presented) as applied to claim 1, Robarts et al. teach a method of analyzing and evaluating said initiation event (see par [40], where Robarts discloses the simulation engine responds to such indicated requests by determining whether the indicated interaction request is permissible and performing the interaction request if deemed permissible, so discloses a method of analyzing and evaluating said initiation event).

Consider claim 8, (previously presented) as applied to claim 1, Robarts et al. disclose at least one of said simulated messages comprises at least one advertisement (see para [48], where Robarts teaches the mobile user is led by the Simulate Phenomena Integrated System to the desired physical

destination and encouraged to engage in desired behavior, such as paying for the ride, by being

"rewarded" by the SPIS according to the narrative, such as becoming eligible for some real world prize

once the state of the mobile device is shown to a park operator, many other gaming, training, and

computer aided learning experiences can be similarly presented and supported using the techniques of

a Simulated Phenomena Interaction System, thus discloses said simulated messages comprises at least

one advertisement).

Consider claim 9, (previously presented) as applied to claim 1, Robarts et al. teach a software

tool comprising program code means stored on a computer readable medium for carrying out the

method of claim 1 when said software tool is run on a computer or network device (refer to figure 6,

number 601-604, see pars [62], [63], [65], [66], [69] where Robarts discloses a variety software

configurations may be used to implement a Simulated Phenomena Interaction System, data formats and

code sequences, etc., in order to provide a thorough understanding of the techniques of the methods

and systems of the present invention. Other downloaded code and potentially other data repositories

also reside in the memory, and preferably execute on one or more CPUs, or network devices such as

cell phones, PDAs, GPS, portable computing devices).

Consider claim 10, (previously presented) as applied to claim 1, Robarts et al. teach a

computer program product comprising program code means stored on a computer readable medium for

carrying out the method of claim 1 when said program product is run on a computer or network device

(refer to figure 6, number 601-604, see pars [62], [63], [65], [66], [69] where Robarts discloses a

variety software configurations may be used to implement a Simulated Phenomena Interaction System,

data formats and code sequences, etc., in order to provide a thorough understanding of the techniques

of the methods and systems of the present invention. Other downloaded code and potentially other

data repositories also reside in the memory, and preferably execute on one or more CPUs, or network

devices such as cell phones, PDAs, GPS, portable computing devices).

Consider claim 11, (previously presented) as applied to claim 1, Robarts et al. teach a

computer program product comprising program code, downloadable from a server for carrying out the

method of claim 1 when said program product is run on a computer or network device (**refer to figure 6, number 601-604, see pars [62], [63], [65], [66], [69]** where Robarts discloses some program code such as C, C++, C# and Java is available for downloaded through web servers, thus teach a computer program product comprising program code, downloadable from a server for carrying out the method of claim 1 when said program product is run on a computer or network device).

Consider claim 12, (previously presented), a computer data signal embodied in a carrier wave and representing a program that instructs a computer to perform the steps of the method of claim 1 (see **pars [62], [63], [65], [66], [69]**).

Consider claim 14, (previously presented) as applied to **claim 13,** Robarts et al. disclose an interface module for receiving data comprising components of said simulated messages and generation rules for generating said simulated messages (**see figure 11, numbers 1105, 1106, 1102, 1103, 1107, 1108; pars [69], [73],** where Robarts discloses input/output devices 1106, a display 1102, network devices 1106 and environment sensors 1103 are used for interacting, communicating or sensing/detecting the simulated phenomena with the simulation engine, thus disclose an interface module for receiving data comprising components of said simulated messages and generation rules for generating said simulated messages).

Consider claim 15, (previously presented) as applied to **claim 13,** Robarts et al. clearly discloses that the said terminal device comprises a mobile phone (**see figure 2, number 201, figure 6, numbers 601, 604**).

Consider claim 18, (previously presented) as applied to **claim 17,** Robarts teaches means for receiving data comprising components of said simulated messages and generation rules for generating said simulated messages (**see figure 6, numbers 620-624, figures 8 and 9, figure 12, number 1207 and 1220, see pars [11], [40], [41], [52], [55], [59], [60] and [70]**).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY C. HO whose telephone number is (571)270-1108. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex V. Eisen can be reached on 571-272-7687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Huy C Ho/
Examiner, Art Unit 2617

/Alexander Eisen/

Supervisory Patent Examiner, Art Unit 2617

31-Dec-08